

Original

UNITED STATES DISTRICT COURT

for the

Northern District of California

San Jose Division

FILED

JUN 17 2019

SVK

JAY BRODSKY

Case No. C 19-03443
SUSAN Y. SONG
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE
(to be filled in by the Clerk's Office)*Plaintiff(s)*

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

EBAY, INC.
PAYPAL, INC.
NAEL YAKOUB
DOES' 1 THROUGH 10

Jury Trial: (check one) Yes No*Defendant(s)*

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Jay Brodsky
Street Address	240 East Shore Road, #444
City and County	Great Neck. Nassau County
State and Zip Code	New York. 11023
Telephone Number	(973) 568-1666
E-mail Address	demcointerexport@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

Name	<u>eBay, Inc.</u>	
Job or Title (<i>if known</i>)		
Street Address	<u>2145 Hamilton Avenue</u>	
City and County	<u>San Jose.</u>	<u>Santa Clara County</u>
State and Zip Code	<u>California</u>	<u>95125</u>
Telephone Number	<u>(866) 540-3229</u>	
E-mail Address (<i>if known</i>)	<u>eBay.com</u>	

Defendant No. 2

Name	<u>PayPal, Inc.</u>	
Job or Title (<i>if known</i>)		
Street Address	<u>2211 North First Street</u>	
City and County	<u>San Jose</u>	<u>Santa Clara</u>
State and Zip Code	<u>California</u>	<u>95131</u>
Telephone Number	<u>(888) 221-1161</u>	
E-mail Address (<i>if known</i>)	<u>PayPal.com</u>	

Defendant No. 3

Name	<u>Nael Yakoub</u>	
Job or Title (<i>if known</i>)		
Street Address	<u>3061 Golf Crest Ridge Road</u>	
City and County	<u>El Cajon</u>	<u>San Diego County</u>
State and Zip Code	<u>California</u>	<u>92019</u>
Telephone Number		
E-mail Address (<i>if known</i>)		

Defendant No. 4

Name	<u>Does' 1 through 10</u>	
Job or Title (<i>if known</i>)		
Street Address	<u>unknown</u>	
City and County		
State and Zip Code		
Telephone Number		
E-mail Address (<i>if known</i>)		

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

Federal question Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* Jay Brodsky, is a citizen of the
State of *(name)* New York.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated
under the laws of the State of *(name)* _____,
and has its principal place of business in the State of *(name)*
_____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of
the State of *(name)* _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) PayPal, Inc., is incorporated under the laws of the State of (name) Delaware, and has its principal place of business in the State of (name) California. Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

75,001+

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.
see attached complaint

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

See attached Complaint

V. Certification and Closing

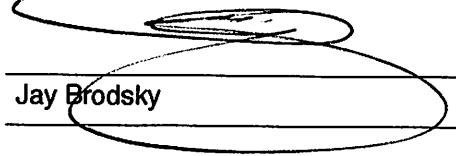
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: June 1, 2019

Signature of Plaintiff



Printed Name of Plaintiff

Jay Brodsky**B. For Attorneys**

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

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Jay Brodsky
240 East Shore Road, #444
Great Neck, NY 11023
Telephone: (973) 568-1666
E-mail: demcointerexport@yahoo.com
Plaintiff ProSe on Behalf of Himself
Case No. _____

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA-SAN JOSE**

THE MATTER OF:

**JAY BRODSKY
PLAINTIFF**

-against-

PAYPAL, INC.
eBAY, INC.
NAEL YAKOUB
DOES 1 THROUGH 10
DEFENDANT

Issues before the Court,

- **Amongst Others:**
- NY Gen. Bus. Law § 349
- NY Gen. Bus. Law § 350
- NY Exec. Law § 63(1)
- Common Law Fraud
- Conspiracy
- 15 U.S.C. §§ 52(a)
- 15 U.S.C. § 45(a)(1)
- (RICO) 18 U.S.C. § 1961 *et seq.*,
- 18 U.S.C. § 1341
- 18 U.S.C. § 1343

**SUMMONS AND COMPLAINT
DEMAND FOR JURY TRIAL**

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I. INTRODUCTION

1. **COME NOW, JAY BRODSKY**, hereafter known as ‘PLAINTIFF,’ as for his complaint against Defendants, PAYPAL, Inc., EBAY, INC., NUEL YAKOUB and DOES 1 through 10; PLAINTIFF alleges upon knowledge as to himself and otherwise upon information and belief, as follows pursuant to Federal Rules of Civil Procedure (FRCP) 8:

II. PRELIMINARY STATEMENT

2. “PLAINTIFF” resides at, 240 East Shore Road, Apartment 444, Great Neck, New York 11023; duly deposes that the facts as stated herein are true to the best of his knowledge.
3. WHEREFORE, Plaintiff brings this self represented claim on behalf of himself.
4. This is a civil action seeking monetary damages, restitution, injunctive and declaratory relief from Defendants’, PAYPAL, INC. hereafter known as. ‘PAYPAL,’ and ‘EBAY, INC., hereafter known as, ‘EBAY,’ NUEL YAKOUB hereafter known as ‘YAKOUB,’ arising from fraudulent, deceptive and misleading business practices’ offered to the public through websites’ known as, paypal.com and ebay.com.

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5. PAYPAL as defined within the Uniform Commercial Code, is known to be a, ‘¹PAYMENT RAIL,’ by those same standards.
6. As defined within the Uniform Commercial Code, EBAY, INC. known to be a, ‘consumer to consumer,’ e-commerce marketplace by those same standards.
7. Nael Yakoub, is a ‘consumer’ who resides in, ‘El Cajon, California.’
8. Plaintiff, as defined by the Uniform Commercial Code, is known to be a, ‘merchant’ of goods sold on eBays’ online selling platform.
9. Items sold on eBays’ online selling platform are governed by the U.C.C.s’ ‘expressed warranty’ as applicable to most other retail ‘merchants’ throughout the United States.
10. Both ‘EBAY’ and ‘PAYPAL’ have a well established return policy stating, ‘If a buyer returns ‘goods’ purchased from an ‘EBAY’ seller, those ‘goods’ must be returned in the same condition in which they were purchased.’ Furthermore, ‘EBAYs’ return policy is well defined, ’if returned ‘goods’ are missing parts, or are damaged during the return shipping process due to poor packaging, a seller may deduct the amount of loss and give the buyer only a

¹ A **payment rail** is a payment platform or a payment network that moves money from a payer to a payee. Either party could be a consumer or business, and both parties are able to move funds on the network.

partial refund or no refund at all (depending on the degree of damage).

Returns as stated, are allegedly contingent on the ‘sellers’ inscribed return policy as duly annexed on ‘sellers’ original eBay listing².

11. Essentially eBay is selling insurance, running a small-claims court, and banking via its relationship with ‘PAYPAL,’ all in one place.
12. **eBay Inc.** (/ˈiːbeɪ/ *EE-bay*) is an American multinational e-commerce corporation based in San Jose, California that facilitates consumer-to-consumer and business-to-consumer sales through its website. eBay was founded by Pierre Omidyar in the autumn of 1995, and became a notable success story of the dot-com bubble. eBay is a multibillion-dollar business with operations in about 30 countries, as of 2011. The company manages the eBay website, an online auction and shopping website in which people and businesses buy and sell a wide variety of goods and services worldwide. The website is free to use for buyers, but sellers are charged fees for listing items after a limited number of free listings, and again when those items are sold.
13. Common ‘EBAY’ criticisms involve the policy of requiring the use of ‘PAYPAL’ for payments and concerns over fraud, forgeries and intellectual

² eBay Logo-Customer Service-Condition of returned items policy

property violations in auction item. There are also issues of how negative feedback after an auction can offset the benefits of using 'EBAY' as a trading platform.

14. **PayPal Holdings, Inc.** is an American company operating a worldwide online payments system that supports online money transfers and serves as an electronic alternative to traditional paper methods like checks and money orders. The company operates as a payment processor for online vendors, auction sites, and many other commercial users, for which it charges a fee in exchange for benefits such as one-click transactions and password memory. 'PAYPALS' payment system, also called PayPal, is considered a type of, 'payment rail.'
15. For the fiscal year 2017, 'PAYPAL' reported earnings of US \$1.795 billion, with an annual revenue of US \$13.094 billion, an increase of 20.8% over the previous fiscal cycle. PayPal's shares traded at over \$55 per share, and its market capitalization was valued at over US \$98.2 billion in October 2018.
16. 'PAYPALS' corporate headquarters are located in the North San Jose Innovation District of San Jose, California, at North First Street campus. The company's operations center is located in Omaha, Nebraska, which was

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opened in 1999. Since July 2007, ‘PAYPAL’ has operated across the European Union as a Luxembourg-based bank. The ‘PAYPAL’ European headquarters are located in Luxembourg and the international headquarters are in Singapore. ‘PAYPAL’ opened a technology center in Scottsdale, Arizona in 2006, and a software development center in Chennai, India in 2007. In October 2007, ‘PAYPAL’ opened a data service office on the north side of Austin, Texas, and also opened a second operations center in La Vista, Nebraska that same year. In 2011, joining similar customer support operations located in Berlin, Germany; Chandler, Arizona; Dublin, Ireland; Omaha, Nebraska; and Shanghai, China; PayPal opened a second customer support center in Kuala Lumpur, Malaysia, and began the hiring process. In 2014, ‘PAYPAL’ opened a new global center of operations in Kuala Lumpur.

III. THE PARTIES

Pursuant to Federal Rules of Civil Procedure 7(a), the parties are as follows:

PLAINTIFF:

17. JAY BRODSKY, is a seller of goods on eBay's selling platform who is citizen and resident of the United States;

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DEFENDANTS:

18. PAYPAL INC., a Delaware Corporation; 2211 North First Street, San Jose, California 95131; SEC listed address: 303 Bryant Street, Mountain View, California 94041;
19. EBAY, INC., a Delaware Corporation; 2025 Hamilton Avenue, San Jose, California 95125; SEC listed address: 2145 Hamilton Avenue, San Jose, California 95125;
20. NAEEL YAKOUB, 3061 Golf Crest Ridge Road, El Cajon CA 92019;
21. DOES' 1 through 10; Plaintiff is presently unable to confirm which of 'PAYPALS' and 'EBAYS' wholly owned subsidiaries and/or affiliated companies; DOES' 1 through 10 are liable for the claims asserted herein. Discovery will allow Plaintiff to proceed with naming additional, 'PAYPAL' and 'EBAY' affiliated and owned companies. Other persons identities included in DOES' 1 through 10, whose identities are unknown to Plaintiff participated in the events alleged herein which give rise to the claims asserted by Plaintiff.

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IV.**VENUE AND JURISDICTION:**

22. Under the Federal Rules of Civil Procedure Rule 8 (Fed. R. Civ. P. 80), Plaintiff, hereby makes it known too, PAYPAL, INC., EBAY, INC., NAEEL YAKOUB and all Does' Defendants' 1 through 10, that Plaintiff in this matter files a complaint at the United States District Court for the Northern District of California for reasons stated herein.

23. The venue is appropriate under 28 U.S.C.A. § 1331 because, among other things; there are Federal issues that can only be adjudicated within the purview of a Federal District Court.

V.**JURY DEMAND**

24. Plaintiff demands a jury trial pursuant to the Seventh Amendment to the Constitution pursuant to Federal Rule of Civil Procedure 38.

VI.**LEGAL STANDING TO FILE LITIGATION**

25. Plaintiff incorporates and re-alleges by reference all allegations as if fully set forth herein.

26. Unfair business competition and practices includes any "unlawful, unfair or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or misleading" advertising.

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27. ‘PAYPAL’ and ‘EBAY’ have violated 15 U.S.C. § 45(a)(1) by representing false and misleading statements and advertising services and agreements that do not and/or never existed.

28. The gravity of harm resulting from these unfair acts and practices outweigh any conceivable reasons, justifications and/or motives of the Defendants to engage in such deceptive acts and practices. By committing the acts and practices alleged herein, Defendants proved that they engaged in unfair business practices within the meaning of NY CLS General Bus § 350 , Common Law Fraud, Conspiracy, NY CLS Gen Bus § 349, 15 U.S.C. §§ 52(a), 15 U.S.C. § 45(a)(1), NY Exec. Law § 63(1), (RICO) Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961–1968, 18 U.S.C. §§ 1341 & 1343 (wire and mail fraud)

29. Through those unfair acts and practices, PAYPAL, EBAY and NAEL YAKOUB knowingly and improperly obtained money from Plaintiff and others similarly situated. As such, Plaintiff requests that ‘PAYPAL,’ ‘EBAY’ and ‘YAKOUB,’ restores those funds to Plaintiff and then enjoins themselves from continuing to violate the aforementioned laws and statutes as engendered herein known and unknown, now and in the future.

Otherwise, Plaintiff and others similarly situated may be irreparably harmed and/or denied an effective and complete remedy.

30. 'PAYPAL' and 'EBAY' effectuated false advertising materials concerning a false and misleading, "RETURN POLICY" which is fraudulent within the meaning of 15 U.S.C. § 45(a)(1) because that policy deceived Plaintiff, and is likely to deceive others similarly situated, into opining that 'goods' sold on 'EBAY' and returned to a 'seller,' are guaranteed to be returned in the same condition as originally sold.
31. 'EBAY' deceptively allows its, 'sellers' to subjugate or assert a return policy that states, 'NO RETURNS ACCEPTED' or 'FREE 30 DAY RETURNS.'
32. Selling on eBay is *not a magical immunity incantation*. It does not override other specific representations a seller might make in describing something for sale. Descriptions of qualities or specifications always constitute "express warranties" under the Uniform Commercial Code (the law of buying and selling in every jurisdiction of the USA), and override eBays' optional return policies.
33. The Uniform Commercial Code (UCC) is an elaborate legal system that governs commercial transactions in all states (except Louisiana, which has

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similar state laws). These laws are vital components of successfully running any business. They are the essence of government enforcement of honest trading, no matter how casual. Thanks to the UCC, you don't need to write a big contract every time you buy or sell something, because the UCC is fair and well-written, and applies by default. Large portions of the UCC have to do with preventing commercial disputes, and resolving them fairly when they do occur. Yet eBay attempts to both circumvent and reinvent these complex protocols of commercial dispute resolution, and is not doing a perfect job of it. They act as if there is some better system to do business via the Internet that makes the UCC obsolete, and that they want to be the authors of such a system.

34. While there are some novel aspects to doing business on the Internet, most of the UCC is still very applicable and vital:
 - The UCC represents the distilled wisdom of centuries of human transactions. To dispense with it as a stuffy, verbose legal code is to invite severe, uneconomic confusion.
 - Most people, especially if not in a regular business, are utterly ignorant of the UCC, why it applies, and why it is important.

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- The UCC applies to just about everything you buy every day, even casual purchases.
- If eBay is, in effect, attempting to replace the UCC with their own improvised system, they can't hope to improve on the UCC. Just because they stumbled into doing that, doesn't mean that they should continue.
- Avoiding the UCC because it is complex does not really simplify any system of commerce. If anything, it makes it more complex, because the UCC is as simple as it can be to cover all the contingencies of buying and selling.
- Isn't eBay really selling insurance, running a small-claims court, and banking (PayPal), even if they arbitrarily use other delineations than these? Should they be claiming that doing business on the internet exempts them from all the legal governance traditionally applied to such activities?

VII. FACTUAL ALLEGATIONS

35. On March 18, 2019 at 11:50PM, 'YAKOUB,' (buyer) effectuated the purchase of an '³Emilio Pucci,' haute couture dress for \$900.00 on 'EBAY.'
36. Plaintiffs' original purchase price of the dress was approximately \$4,500.00 (including sales tax).

³ **Emilio Pucci, Marquis of Barsento** (20 November 1914 – 29 November 1992) was a Florentine Italian **fashion designer** and politician. He and his eponymous company are synonymous with geometric prints in a kaleidoscope of colors.



(The dress is posed on a full sized female mannequin that measures six (6) feet tall in height. It clearly establishes the dress as above the knee which thereby affirms Plaintiffs advertisement. Unless 'YAKOUB' is taller than 6 feet, there is no misrepresentation of facts.)

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37. The original eBay advertisement listed the selling details are as follows:

*Deep Forest Green
Hand Crafted Exclusive Intricate Beading..
HAUTE COUTURE PUCCI...beautifully seamed...*

MADE INFAMOUS BY⁴JENNIFER LOPEZ

*Excellent preowned condition..rarely found!
THE ONLY ONE AVAILABLE FOR SALE ANYWHERE
Please email if you have questions on this beautiful dress*

*Measurements:
shoulder: One Shoulder
sleeve: 26.5"
bust 32-34"
waist 24"
hips 28"
length 39"
Fully Lined*

**IF YOU ARE A TRUE 40 THIS WILL NOT FIT
THIS DRESS IS ACTUALLY A SIZE 38 ITALIAN**



5

⁴ **Jennifer Lynn López**^[2] (born July 24, 1969) is an American actress, singer, dancer and producer. In 1991,

⁵ Picture captured from Pinterest: **Pinterest, Inc.** is a social media web and mobile application company. It operates a software system designed to enable discovery of information on the World Wide Web using images and, on a smaller scale, GIFs and videos.

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38. The buyer of the above referenced dress, 'YAKOUB,' effectuated payment on March 19, 2019 at 11:25PM.

39. Plaintiff shipped the purchased item to 'YAKOUB' on March 20, 2019.

40. The dress purchased by 'YAKOUB' was delivered by USPS Priority Mail on March 22, 2019 at 11:07AM [Exhibit #3].

41. On March 31, 2019, thirteen (13) days anteceding the effectuated purchase date of said dress, 'YAKOUB' requested a return:

Respond to return request

Hi jay,

mybargains1 let us know that something is wrong with Emilio Pucci Haute Couture Runway Beaded Dress Size 40 (38) \$4200 orig.. As a result, they requested to return the item for a refund.

[See request details](#) and be sure to reply to the buyer by Apr 04, 2019. Note that if you accept a return, you'll be charged for return shipping. Starting on that day, the buyer could ask us to step in and help by opening a case - this can affect your seller level.

The funds for this transaction will be unavailable until this return has been closed. You can also use these funds to issue a refund. You must issue a refund within 2 days of the item being delivered.

You can ask us to step in and help if there's a problem with the buyer's request.

Emilio Pucci Haute Couture Runway Beaded Dress Size 40 (38) \$4200 orig.

Item Id:	223085087724
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Buyer Id:	mybargains1
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Return Id:	5111862917
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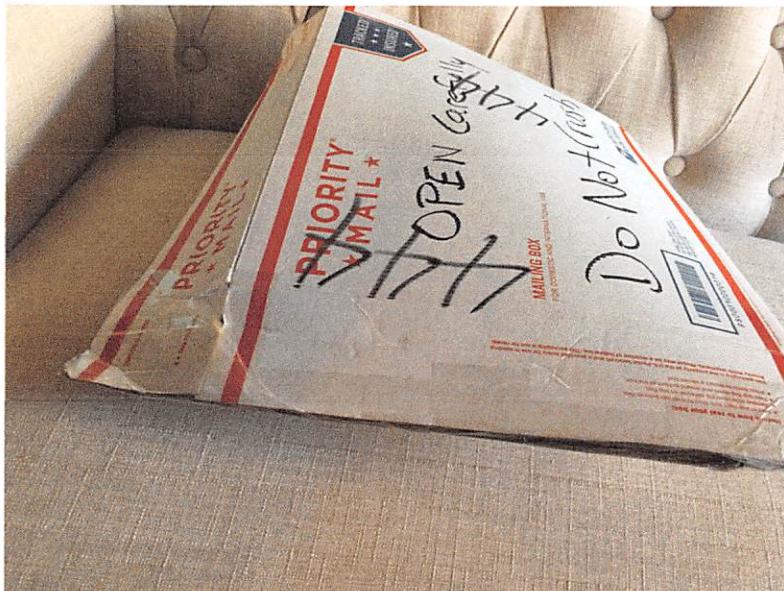
42. On March 31, 2019, Plaintiff promptly replied to 'YAKOUB's' request by questioning why it took thirteen days to return the dress? 'YAKOUB' replied:

Hi jay,

mybargains1 sent you a message about their request:

"i've been out of town and just got to it. the pictures show the dress being knee length. the dress being short cheapens it. I can also send a pic of loose beads "

43. Plaintiffs' 'Emilio Pucci' ⁶haute couture dress was returned on April 15, 2019 USPS Priority Mail [9410809699939809007633][**Exhibit #2**]



⁶ **Haute couture** (/oʊt koo'tjœr/; French pronunciation: [ot kutyʁ]; French for "high sewing" or "high dressmaking" or "high fashion") is the creation of exclusive custom-fitted clothing. Haute couture is high-end fashion that is constructed by hand from start to finish, made from high-quality, expensive, often unusual fabric and sewn with extreme attention to detail and finished by the most experienced and capable sewers—often using time-consuming, hand-executed techniques.

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44. Upon receipt of the poorly packaged returned dress illustrated above, it was carefully removed from the box. Plaintiff and 'DONNA MARTIN' (wife) were immediately overwhelmed by the deleterious odor of 'CHEAP PERFUME' permeating throughout the room where they were standing. DONNA MARTIN experienced an immediate asthmatic allergic reaction to the aforementioned perfume.

45. Once an 'haute couture' dress becomes saturated with inexpensive perfume, the insidious or appended chemical makeup comprising that perfume can never be fully remediated. Any attempt to dry clean an expensive silk dress such as this, will only exacerbate the problem by conflating those dry cleaning chemicals with whatever chemicals are found in the perfume thereby engendering the mixture into a noxious conformation:

Perfume

"Sure, we buy them because we think they smell nice, but it doesn't mean we want our perfume (or someone else's!) to remain on our clothes the next time we wear them! Fragrance companies spend a lot of time and money coming up with

formulas that make their scents stick so it's no wonder these smells are particularly tough to remove.”⁷

46. ‘DONNA MARTIN’ is ‘highly allergic’ to foreign chemical agents commonly contained in most inexpensive perfumes:

COMMON CHEMICALS FOUND IN PERFUMES

Based on a 1991 EPA Study

Compiled by Julia Kendall (1935 – 1997); distributed by Environmental Health Network (used by permission)

Principal chemicals found in scented products are:

These are the main chemicals found in most products people use every day — shampoos, toothpastes, cleaning gels, deodorant, and beauty products:

- A. ⁸ACETONE (in: perfume, dishwashing liquid and detergent, nail enamel remover)
- B. On ⁹EPA, ¹⁰RCRA, ¹¹CERCLA Hazardous Waste lists. "Inhalation can cause dryness of the mouth and throat; dizziness, nausea, incoordination, slurred speech, drowsiness, and, in severe exposures, coma." "Acts primarily as a central nervous system (CNS) depressant."

⁷ OdorKlenz is a trusted name as the #1 odor eliminator that's safe to use in homes, day cares, schools, businesses and doctor offices. All OdorKlenz products come with a 30-day money back guarantee. If for any reason we are unable to resolve your issues or you are not happy with your purchase we will happily offer a refund.

⁸ Acetone is [miscible with water](#) and serves as an important [solvent](#) in its own right, typically for cleaning purposes in laboratories.

⁹ The **Environmental Protection Agency (EPA)** is an [independent agency](#) of the [United States federal government](#) for [environmental protection](#)

¹⁰ The **Resource Conservation and Recovery Act (RCRA)**, enacted in 1976, is the principal [federal law](#) in the [United States](#) governing the disposal of [solid waste](#) and [hazardous waste](#).

¹¹ **Superfund** is a United States federal government program designed to fund the cleanup of sites contaminated with hazardous substances and pollutants.

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C. ¹²BENZALDEHYDE (in: perfume, cologne, hairspray, laundry bleach, deodorants, detergent, vaseline lotion, shaving cream, shampoo, bar soap, dishwasher detergent), Narcotic. Sensitizer. "Local anesthetic, CNS depressant" ... "irritation to the mouth, throat, eyes, skin, lungs, and GI tract, causing nausea and abdominal pain." "May cause kidney damage." "Do not use with contact lenses."

D. ¹³BENZYL ACETATE (in: perfume, cologne, shampoo, fabric softener, stickup air freshener, dishwashing liquid and detergent, soap, hairspray, bleach, after shave, deodorants)

E. ¹⁴BENZYL ALCOHOL (in: perfume, cologne, soap, shampoo, nail enamel remover, air freshener, laundry bleach and detergent, vaseline lotion, deodorants, fabric softener). "irritating to the upper respiratory tract" ... "headache, nausea, vomiting, dizziness, drop in blood pressure, CNS depression, and death in severe cases due to respiratory failure."

F. ¹⁵CAMPHOR (in: perfume, shaving cream, nail enamel, fabric softener, dishwasher detergent, nail color, stickup air freshener) "local irritant and CNS stimulant" ... "readily absorbed through body tissues" ... "irritation of eyes, nose and throat" ... "dizziness, confusion, nausea, twitching muscles and convulsions" "Avoid inhalation of vapors."

¹² Benzaldehyde (C_6H_5CHO) is an organic compound consisting of a benzene ring with a formyl substituent. It is the simplest aromatic aldehyde and one of the most industrially useful.

¹³ Benzyl acetate is an organic ester with the molecular formula $C_9H_{10}O_2$. It is formed by the condensation of benzyl alcohol and acetic acid

¹⁴ Benzyl alcohol is an aromatic alcohol with the formula $C_6H_5CH_2OH$. The benzyl group is often abbreviated "Bn" (not to be confused with "Bz" which is used for benzoyl), thus benzyl alcohol is denoted as $BnOH$.

¹⁵ Camphor (/kæmfər/) is a waxy, flammable, transparent solid with a strong aroma

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G. ¹⁶ETHANOL (in: perfume, hairspray, shampoo, fabric softener, dishwashing liquid and detergent, laundry detergent, shaving cream, soap, vaseline lotion, air fresheners, nail color and remover, paint and varnish remover) On EPA Hazardous Waste list; symptoms: "...fatigue; irritating to eyes and upper respiratory tract even in low concentrations..." "Inhalation of ethanol vapors can have effects similar to those characteristic of ingestion. These include an initial stimulatory effect followed by drowsiness, impaired vision, ataxia, stupor..." Causes CNS disorder.

H. ¹⁷ETHYL ACETATE (in: after shave, cologne, perfume, shampoo, nail color, nail enamel remover, fabric softener, dishwashing liquid). Narcotic. On EPA Hazardous Waste list; "...irritating to the eyes and respiratory tract" ... "may cause headache and narcosis (stupor)" ..."defatting effect on skin and may cause drying and cracking" ... "may cause anemia with ¹⁸leukocytosis and damage to liver and kidneys" "Wash thoroughly after handling."

I. ¹⁹LIMONENE (in: perfume, cologne, disinfectant spray, bar soap, shaving cream, deodorants, nail color and remover, fabric softener, dishwashing liquid, air fresheners, after shave, bleach, paint and varnish remover) Carcinogenic. "Prevent its contact with skin or eyes because it is an irritant and sensitizer." "Always wash thoroughly after using this material and before eating, drinking, ...applying cosmetics. Do not inhale limonene vapor."

¹⁶ Ethanol (also called ethyl alcohol, grain alcohol, drinking alcohol, or simply alcohol) is a chemical compound, a simple alcohol with the chemical formula C₂H₆O.

¹⁷ Ethyl acetate (systematically ethyl ethanoate, commonly abbreviated EtOAc, ETAC or EA) is the organic compound with the formula CH₃-COO-CH₂-CH₃, simplified to C₄H₈O₂.

¹⁸ Leukocytosis is white cells (the leukocyte count) above the normal range in the blood.

¹⁹ Limonene is a colorless liquid aliphatic hydrocarbon classified as a cyclic monoterpene,

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J. ²⁰LINALOOL (in: perfume, cologne, bar soap, shampoo, hand lotion, nail enamel remover, hairspray, laundry detergent, dishwashing liquid, vaseline lotion, air fresheners, bleach powder, fabric softener, shaving cream, after shave, solid deodorant) Narcotic. ... "respiratory disturbances" ... "Attracts bees." "In animal tests: ²¹ataxic gait, reduced spontaneous motor activity and depression ...development of respiratory disturbances leading to death." ... "depressed frog-heart activity." Causes CNS disorder.

K. ²²METHYLENE CHLORIDE (in: shampoo, cologne, paint and varnish remover) Banned by the FDA in 1988! No enforcement possible due to trade secret laws protecting chemical fragrance industry. On EPA, RCRA, CERCLA Hazardous Waste lists. "Carcinogenic" ... "Absorbed, stored in body fat, it metabolizes to carbon monoxide, reducing oxygen-carrying capacity of the blood." "Headache, giddiness, stupor, irritability, fatigue, tingling in the limbs." Causes CNS disorder.

L. ²³a-PINENE (in: bar and liquid soap, cologne, perfume, shaving cream, deodorants, dishwashing liquid, air freshener)Sensitizer (damaging to the immune system).

M. ²⁴g-TERPINENE (in: cologne, perfume, soap, shaving cream, deodorant, air freshener)"Causes asthma and CNS disorders."

²⁰ **Linalool** (/lɪ'nælʊɒl, lər-, -loʊʊɒl, -'lu:l/) [1][2] refers to two enantiomers of a naturally occurring terpene alcohol found in many flowers and spice plants.

²¹ **Ataxia** is a neurological sign consisting of lack of voluntary coordination of muscle movements that can include gait abnormality, speech changes, and abnormalities in eye movements.

²² This colorless, volatile liquid with a moderately sweet aroma is widely used as a solvent.

²³ **a-Pinene** is an organic compound of the terpene class, one of two isomers of pinene

²⁴ The **terpinenes** are a group of isomeric hydrocarbons that are classified as monoterpenes.

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N. ²⁵a-TERPINEOL (in: perfume, cologne, laundry detergent, bleach powder, laundry bleach, fabric softener, stickup air freshener, vaseline lotion, cologne, soap, hairspray, after shave, roll-on deodorant) "highly irritating to mucous membranes" ... "Aspiration into the lungs can produce pneumonitis or even fatal ²⁶edema." Can also cause "excitement, ataxia (loss of muscular coordination), hypothermia, CNS and respiratory depression, and headache." "Prevent repeated or prolonged skin contact."

(NOTE: Unable to secure MSDS for the following chemicals: 1,8

²⁷CINEOLE; ²⁸b-CITRONELLOL; ²⁹b-MYRCENE; ³⁰NEROL;

³¹OCIMENE; ³²b-PHENETHYL ALCOHOL; ³³a-TERPINOLENE

Relevant Facts:

²⁵ **Terpineol** is a monoterpenic alcohol that has been isolated from a variety of sources such as cajuput oil, pine oil, and petitgrain oil

²⁶ **Edema**, also spelled **oedema** or **œdema**, is an abnormal accumulation of fluid in the **interstitium**, located beneath the skin and in the cavities of the body, which can cause severe pain.

²⁷ **Eucalyptol** is a natural organic compound that is a colorless liquid. It is a cyclic ether and a monoterpenoid.

²⁸ Both enantiomers occur in nature. (+)-Citronellol, which is found in citronella oils, including *Cymbopogon nardus* (50%), is the more common isomer. (-)-Citronellol is found in the oils of rose (18–55%) and *Pelargonium* geraniums

²⁹ It is more precisely classified as a monoterpenic alcohol. Monoterpenes are dimers of isoprenoid precursors, and myrcene is a significant component of the essential oil of several plants, including bay, cannabis, ylang-ylang, wild thyme, parsley, cardamom, and hops

³⁰ **Nerol** is a monoterpenic alcohol found in many essential oils such as lemongrass and hops.

³¹ **Ocimenes** are a group of isomeric hydrocarbons. The ocimenes are monoterpenes found within a variety of plants and fruits

³² It is a colourless liquid that is slightly soluble in water (2 ml/100 ml H₂O), but miscible with most organic solvents

³³ a-Terpinene has been isolated from cardamom and marjoram oils, and from other natural sources.

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- 95% of chemicals used in fragrances are synthetic compounds derived from petroleum. They include benzene derivatives, aldehydes and many other known toxics and sensitizers—capable of causing cancer, birth defects, central nervous system disorders and allergic reactions. Neurotoxins: At Home and the Workplace, Report by the Committee on Science & Technology, U.S. House of Representatives, Sept. 16, 1986. (Report 99-827)
- Central Nervous System disorders (brain and spine) include Multiple Sclerosis, Parkinson's Disease, Alzheimer's Disease, Sudden Infant Death Syndrome.
- An FDA analysis (1968-1972) of 138 compounds used in cosmetics that most frequently involved adverse reactions, identified five chemicals (alpha-terpineol, benzyl acetate, benzyl alcohol, limonene and linalool) that are among the 20 most commonly used in the 31 fragrance products tested by the EPA in 1991!
- Thirty-three million Americans suffer from sinusitis (inflammation or infection of sinus passages).
- Ten million Americans have asthma. Asthma and asthma deaths have increased over 30% in the past 10 years.
- Headaches cost \$50 billion in lost productivity and medical expenses and 157 million lost work days in 1991. "Focus on Fragrance and Health," by Louise Kosta, The Human Ecologist, Fall 1992.

Reference: Lance Wallace, Environmental Protection Agency; Phone: (703) 648-4287
Excerpts from "Health Hazard Information" Symptoms of exposure are taken from industry-generated Material Safety Data Sheets (MSDS)

COMMON ALLERGIC REACTIONS TO CHEMICALS FOUND IN PERFUMES

47. An **allergic response** is a hypersensitive immune reaction to a substance that normally is harmless or would not cause an immune response in everyone. An allergic response may cause harmful symptoms such as itching or inflammation or tissue injury.

48. **Anaphylaxis** is a serious allergic reaction that is rapid in onset and may cause death. It typically causes more than one of the following: an itchy rash, throat or tongue swelling, shortness of breath, vomiting, lightheadedness, and low blood pressure. These symptoms typically come on over minutes to hours.

49. **Allergic inflammation** is an important pathophysiological feature of several disabilities or medical conditions including allergic asthma, atopic dermatitis, allergic rhinitis and several ocular allergic diseases. Allergic reactions may generally be divided into two components; the early phase reaction, and the late phase reaction. While the contribution to the development of symptoms from each of the phases varies greatly between diseases, both are usually present and provide us a framework for understanding allergic disease.

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50. **Multiple chemical sensitivity (MCS)**, also known as **idiopathic environmental intolerances (IEI)**, is a complex chronic condition symptoms characterized by non-specific symptoms that the affected person attributes to encountering small amounts of common substances, such as perfume. The etiology, diagnosis and treatment of MCS are controversial and still debated among researchers, but a 2018 review concluded that a hyperactive limbic system and autonomic nervous system were confirmed features of the condition. A 2018 systematic review concluded that the evidence suggests that organic abnormalities in sensory processing pathways and the limbic system combined with some specific, uncommon personality traits (such as heightened attentional bias) best explains this condition.

51. **Perfume intolerance or perfume allergy** is a condition wherein people exhibit sensitivity or allergic reactions to ingredients in some perfumes and some other fragrances. This condition is very common and studies show that about 30% of the general population may suffer from it.

CONVERSATIONS BETWEEN PLAINTIFF AND EBAY

52. On April 1, 2019 at 1:45PM, Plaintiff spoke to ‘GREEN,’ a customer service representative employed by eBay. During the conversation Plaintiff

expounded a brief summary establishing what had transpired between himself and ‘YAKOUB.’ ‘GREEN’ listened and then advised Plaintiff too, ‘WAIT’ in hope that the complaint will ‘TIME ITSELF OUT’ (associated with eBay’s own proscribed statute of limitations) thereby engendering the return with no associated refund to ‘YAKOUB’ who had ‘DESTROYED’ Plaintiffs’ expensive dress (eBay conversation reference #1-205447179207).

53. On April 5, 2019 at 3:00PM Plaintiff spoke with ‘MARIA’ an eBay customer service representative. During that conversation Plaintiff reiterated the same facts and after some contemplation by ‘MARIA,’ advised him to ‘WAIT’ for ‘YAKOUBs’ reply to Plaintiffs’ denial (eBay conversation reference # 1-206097176877).
54. On April 15, 2019 at 6:30PM Plaintiff spoke with ‘CEE-CEE’ who was sympathetic. ‘CEE-CEE’ reiterated the same advise to Plaintiff which was to wait before escalating the case to a higher level (eBay conversation reference #1-207454654047).
55. On April 16, 2019 at 3:45PM, upon receipt of the returned ‘Emilio Pucci’ haute couture dress from ‘YAKOUB,’ Plaintiff entered a ‘CHAT’ with ‘BREANA’ [Exhibit #1] again conveying that the dress had been returned

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saturated in, 'CHEAP PERFUME' thereby rendering it 'WORTHLESS.'

Plaintiff was advised by, 'BREANA' that in a case such as this where a return has been effectuated in a state of utter 'DESTRUCTION,' 'EBAY' will protect its seller by opposing any refund demanded. Plaintiff was again advised to wait.

56. On April 24, 2019 after Plaintiff received a memorandum stating that a refund had been effectuated by, 'PAYPAL,' Plaintiff entered a 'CHAT' with 'OMKAR.' Plaintiff advised 'OMKAR,' an 'EBAY' customer service representative, that as a result of, 'EBAY, PAYPAL and YAKOUB' perpetrating fraudulent and illegal behavior upon him, Plaintiff is forced to adjudicate the matter in a United States District Court. 'OMKAR' then advised Plaintiff that a. 'BACKEND TEAM' member (comprised of persons unknown) would take another look at the situation [Exhibit #3].

PRESERVING EVIDENCE

57. Pursuant to Rule 37(a) of the Federal rules of Civil Procedure, Plaintiff demands that 'EBAY, PAYPAL and YAKOUB' preserve all documents being sought because, upon information and belief, the Defendants possess information material and necessary in the prosecution of this action that is

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not reasonably available from any of the parties. 'eBay' and 'PayPal' are required to produce at a future time and place the following documents in their possession, custody and control:

- All chat conversations by and between Plaintiff and eBay and/or PayPal;
- All chat conversations by and between 'Yakoub' and eBay and/or PayPal;
- All recorded telephone conversations by and between Plaintiff and eBay and/or PayPal;
- All recorded telephone conversations by and between 'Yakoub' and eBay and/or PayPal;
- Any and all documents that depict memorization of conversations, writings', emails', faxes' or any other communications' by and between eBay or PayPal employees', concomitant or individually, that determined the outcome of the return status of Plaintiffs Emilio Pucci haute couture dress.
- All employment records of those individuals who were or are charged with passing judgement on important issues such as whether an item purchased on eBays e-commerce buying and selling platform are slated for return to a seller. Particularly establishing an individuals qualifications to transpose a buyer or sellers heresay testimony into a sound and qualified final decision.

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58. If any documents described in this request were, but no longer are in your possession or subject to your custody or control, or in existence, please state whether it is missing or lost; whether it has been destroyed; whether it has been transferred, voluntarily or involuntarily, to others; or whether it has been disposed of otherwise. In each instance explain the circumstances surrounding such disposition and identify the person directing or authorizing same, and the date thereof. Identify each such document by listing its author, and the authors address, type of document (e.g., letter, memorandum, telegram, chart, or photograph), date, subject matter, present location and custodian, and state whether the document (or copies) are still in existence.

59. If any document described in this request is withheld on the basis that it is privileged, please state the factual and legal basis for the privilege asserted, the type of document that has been withheld, the date of the document, the general subject matter of the document, the author or creator of the document, and the names of any persons that have had access to the document.

60. Pursuant to Rule 26(a)(1) and Rules 702, 703 and 705 of the Federal Rules of Civil Procedure, copies of documents furnished in response to this

demand must be organized and labeled to correspond to the categories in the request.

61. PLEASE TAKE FURTHER NOTICE, that the foregoing demands are of a continuing nature, and that should information relating thereto become known in the future, then said information should be furnished to Plaintiff within a reasonable time after the acquisition thereof. If none of the above items exist, you are too so state in a sworn reply to this demand. Failure to comply with the foregoing demands will serve as the basis of a motion to preclude you upon trial of this action from offering evidence relating thereto, whether such evidence consists of written records or oral testimony.

DEMANDS BY PLAINTIFF PURSUANT TO DEFENDANTS ILLEGAL ACTS

62. Through a series of unfair acts and practices, 'YAKOUB,' has improperly obtained pecuniary remuneration from Plaintiff. As such, Plaintiff demands that 'PAYPAL and EBAY' immediately restore those funds, and enjoin themselves from continuing to violate 15 U.S.C. § 45(a)(1) as established herein and/or from violating 15 U.S.C. § 45(a)(1) forthwith. Otherwise, Plaintiff will likely be irreparably harmed and/or denied an effective and

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complete remedy absent of adjudicating these aforementioned issues referenced herein.

63. Further, the, “FTCA,” prohibits unfair or deceptive acts or practices in or affecting commerce” and specifically prohibits false advertisements pursuant to, 15 U.S.C. § 45(a)(1) and 15 U.S.C. § 52(a). The FTC has established Guidelines that prohibit the dissemination of fake information pertaining to ‘EBAYs and PAYPALS’ contradictory ‘RETURN POLICIES,’ (UCC ‘express warranty for all retail sales) similar to ‘EBAYs,’ ‘TERMS OF USE,’ scheme in material respects, as deceptive practices that violate the FTCA:

(a) It bears repeating that the manufacturer, distributor, service provider or retailer must in every case act honestly and in good faith in advertising services or policies provided to the public, and not with the intention of establishing a basis, or creating an instrumentality, for a deceptive comparison in any local or other trade area. For instance, a manufacturer may not affix price tickets containing inflated prices as an accommodation to particular retailers who intend to use such prices as the basis for advertising fictitious price reductions under 16 C.F.R. § 233.3. The same applies to

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'EBAY and PAYPALS' false and misleading advertising that, 'a seller has an option to accept or deny returns from a buyer.' Conveying such false and misleading policies is in consonance to Uniform Commercial Code which commands that all retail sales are subject too, 'express warranty' policies.

64. Both 'EBAY and PAYPAL' effectuated a materially false, 'RETURN POLICY,' in connection to its marketing and advertisements relating to services provided to 'sellers' at, 'ebay.com' Those conveyances violate the FTCA, 15 U.S.C. § 45(a)(1) and 15 U.S.C. § 52(a), as well as FTC Guidelines published at 16 C.F.R. § 233.
65. Plaintiff brings these issues to light individually, under New York State, California and Federal Law. Although there are numerous permutations of the elements of unjust enrichment causes of action in various States, there are few real differences. In all States, the focus of an unjust enrichment claim is whether Defendants were unjustly enriched. At the core of each State's laws are two fundamental elements – the Defendants received a benefit from a Plaintiff and it would be inequitable for those Defendants to retain such benefit without compensating the Plaintiff. The focus of an inquiry into these matters is the same in each State. Since there is no

material conflict relating to the elements of unjust enrichment between different jurisdictions from which Plaintiffs' maybe drawn, New York State Law and California law both apply to this claim.

66. Plaintiff conveyed non-gratuitous payments to 'EBAY' for services expected pursuant to Defendants' deceptive advertising, and marketing scheme. Defendants accepted and/or retained the non-gratuitous benefits conveyed by Plaintiff, with full knowledge and awareness that, as a result of Defendants' deceptive practices, Plaintiff did not receive a service of quality, fitness, or value that had been represented by Defendants to any reasonable consumer who upon receipt of such false and misleading statements would not have expected the deceptive acts perpetrated upon him.
67. Defendants have been unjustly enriched and continue to retain revenue derived solely from a falsely effectuated 'RETURN POLICY.' Retention of that revenue under these circumstances is unjust and inequitable because Defendants misrepresented, among other things, that a policy of, 'NO RETURNS ACCEPTED' was an option in order to protect sellers such as Plaintiff from fraudulent acts being perpetrated by unscrupulous buyers such as, 'YAKOUB,' who in affect, borrowed Plaintiffs dress, ruined plaintiffs

dress and then returned Plaintiffs dress thereby causing Plaintiff to materially suffer pecuniary injury. These arbitrary and capricious practices caused material pecuniary injury to Plaintiff who sells 'goods' on 'EBAY' who falsely conveyed a false perception that he was fully protected from material injury.

68. Retaining such non-gratuitous pecuniary benefits which had been conveyed to Defendants by Plaintiff under these false and misleading circumstances engenders Defendants' retention of those pecuniary benefits as unjust and inequitable. Thus, Defendants' must restore the ill-gotten pecuniary remuneration they received back to Plaintiff to avoid long and costly litigation.

VIII. COUNT ONE
VIOLATION OF NY Gen. Bus. Law § 349

69. Plaintiff re-alleges and incorporates the foregoing allegations as set forth herein this Complaint.
70. 'EBAY concomitantly with PAYPAL and YAKOUB,' engaged in deceptive and unlawful practices in the conduct of business, trade and/or commerce in New York State, in violation of GBL § 349(a) in the course of promoting, advertising and marketing its sales services, as set forth above.

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71. 'EBAY, concomitantly with PAYPAL and YAKOUB,' have damaged Plaintiff who is resident in New York State through a pattern of deceptive practices in violation of GBL § 349(a).

72. 'EBAY, concomitantly with PAYPAL and YAKOUB,' have illegally obtained pecuniary remuneration and/or property, directly and/or indirectly, by perpetrating fraudulent and deceptive practices upon Plaintiff who is resident in New York State.

VIII. COUNT TWO
VIOLATION OF NY Gen. Bus. Law § 350

73. Plaintiff re-alleges and incorporates the foregoing allegations as set forth herein this Complaint.

74. 'EBAY, concomitantly with PAYPAL and YAKOUB,' engendered misrepresentations and/or omissions of fact that are materially misleading, and thereby perpetrated false advertisements in the conduct of business, trade and/or commerce in New York State, in violation of GBL § 350, in the course of advertising, promoting, and/or marketing e-commerce services and/or policies, as set forth herein.

75. ‘EBAY, concomitantly with PAYPAL and YAKOUB,’ inflicted injury upon Plaintiff who is resident in New York State through its false advertisements in violation of GBL § 350.

IX. COUNT THREE
**REPEATED AND PERSISTENT FRAUD IN VIOLATION OF
NEW YORK EXECUTIVE LAW § 63(12)**

76. Plaintiff re-alleges and incorporates the foregoing allegations as set forth herein this Complaint.

77. ‘EBAY, concomitantly with PAYPAL and YAKOUB,’ engaged in repeated and/or persistent fraud in violation of Executive Law § 63(12) in the course of its promotion, marketing, and/or advertisement of an alleged, ‘SAFE SELLING ENVIRONMENT’ on its e-commerce selling platform in New York State.

78. ‘EBAY, concomitantly with PAYPAL and YAKOUB,’ engaged in repeated and/or persistent fraud in violation of Executive Law § 63(12) through a: (i) fraudulent scheme to promote and market an alleged ‘NO REFUNDS’ policy as falsely described herein; and/or (ii) false statements and/or omissions to New York State on each of its applications to engage in ‘e-commerce’ and ‘payment rail’ services.

79. ‘EBAY, concomitantly with PAYPAL and YAKOUB,’ engaged in repeated and/or persistent fraud in violation of Executive Law § 63(12) by promulgating false statements and/or omissions related to New York State Law on each of its applications to engage in e-commerce and ‘payment rail’ services.

80. ‘EBAY, concomitantly with PAYPAL and YAKOUB,’ damaged Plaintiff who is resident in New York State, and obtained ill-gotten pecuniary remuneration, through repeated and persistent fraud in violation of Executive Law § 63(12).

X. COUNT FOUR
REPEATED AND PERSISTENT ILLEGALITY IN VIOLATION OF
NEW YORK EXECUTIVE LAW § 63(12)

81. Plaintiff re-alleges and incorporates the foregoing allegations as set forth herein this Complaint.

82. The ‘EBAY, PAYPAL and YAKOUB,’ concomitantly engaged in repeated and/or persistent illegality in violation of N.Y. Executive Law § 63(12) in the course of its, promotion, marketing, and/or advertising of an alleged ‘NO RETURNS’ policy for ‘sellers’ on its e-commerce selling platforms in New York State.

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83. ‘EBAY, concomitantly with PAYPAL and YAKOUB,’ engaged in repeated and/or persistent illegality in violation of N.Y. Executive Law § 63(12) through violations pursuant too *inter alia*: (i) General Business Law § 349; (ii) General Business Law § 350.

84. ‘EBAY, concomitantly with PAYPAL’ and YAKOUB’ damaged Plaintiff who is resident in New York State, and obtained ill-gotten pecuniary remuneration, through repeated and persistent illegality in violation of N.Y. Executive Law § 63(12).

XI.

COUNT FIVE
COMMON-LAW FRAUD

85. Plaintiff re-alleges and incorporates the foregoing allegations as set forth within, 1 through 84, of this Complaint.

86. ‘EBAY, concomitantly with PAYPAL’ and YAKOUB,’ knowingly made material misrepresentations and/or omissions of facts to Plaintiff, in order to induce, coerce, incite and/or entice Plaintiff to sell his personal ‘goods’ on ‘EBAYS’ e-commerce selling platform, as set forth in detail herein.

87. ‘EBAY, concomitantly with PAYPAL’ and YAKOUB,’ knew at the time when Plaintiff first posted his expensive designer clothing for sale on ‘EBAYs’ e-commerce selling platform that a false ‘RETURN POLICY,’ had

been conveyed to Plaintiff even though those policies are in consonance to the Uniform Commercial Codes mandatory ‘EXPRESS WARRANTY.’ Harboring that knowledge did not prevent Defendants from continuing to promulgate these misrepresentations and/or false omissions, or alternatively reckless incantations thereby disregarding those representations as completely false.

88. ‘EBAY, concomitantly with PAYPAL’ and YAKOUB,’ intended for Plaintiff, at time of posting his valuable ‘goods,’ on ‘EBAYS’ e-commerce selling platform, that he would rely on its misrepresentations and/or omissions.
89. Plaintiff did in fact reasonably rely upon ‘EBAYS’ and ‘PAYPALS’ misrepresentations and/or omissions.
90. By reason of Plaintiffs reliance on ‘EBAYS’ and ‘PAYPALS’ misrepresentations and omissions of material fact, Plaintiff suffered direct and consequential injury.
91. ‘EBAYS’ and ‘PAYPALS’ fraudulent conduct is egregious, as directed towards Plaintiff, and involved a high degree of moral culpability.

XII.

COUNT SIX

CONSPIRACY

92. Plaintiff re-alleges and incorporates the foregoing allegations as set forth herein this Complaint.
93. 'EBAY, PAYPAL and YAKOUB,' willingly and with forethought conspired to engage in a fraudulent campaign to promulgate material misrepresentations and/or omissions of facts to Plaintiff, in order to coerce him into selling his personal 'goods' on 'EBAYS' e-commerce selling platform, as set forth in detail herein.
94. 'EBAY, concomitantly with PAYPAL and YAKOUB,' employed these tactics in an effort to aggrandize profits from increased sales commissions.
95. 'EBAY concomitantly with PAYPAL and YAKOUB,' directly promulgated false or misleading statements of policy in an effort to further aggrandize the objectives of the conspiracy.
96. Plaintiff was directly and proximately harmed by the 'EBAY, PAYPAL and YAKOUB,' who conspired in an amount to be determined at trial.

XIII.**COUNT SEVEN**
VIOLATION OF 15 U.S.C. §§ 52(a)

97. Plaintiff re-alleges and incorporates the foregoing allegations as set forth herein this Complaint.
98. 'EBAY, PAYPAL and YAKOUB,' perpetrated unfair and/or deceptive policies upon Plaintiff. The direct causation or knowingly conveying any false advertisements within the provisions of subsection (a) of this section shall be deemed an unfair or deceptive practice that affects commerce within the meaning of section 5, [15] USCS § 45.
99. 'EBAY, PAYPAL and YAKOUB,' have no constitutional right to falsely convey misrepresentations upon 'consumers' and/or 'sellers' and therefore are prohibited from disseminating false advertisements by United States mail or by any other means in commerce for the purpose of inducing or which are likely to coerce directly or indirectly the purchase of 'goods' by commerce of advertised products. American Medicinal Products, Inc. v. Federal Trade Com. (1943, CA9) 136 F2d 426.
100. It is not necessary for false advertising to be directly conveyed by Defendants, since 15 USCS § 52 makes it unlawful for 'EBAY, PAYPAL

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and/or YAKOUB,' to cause such false advertising to be disseminated. Shafe

v. Federal Trade Com. (1958, CA6) 256 F2d 661.

101. Advertising falls within proscription of Federal Trade Commission Act not only when there is proof of actual deception but also when representations made have the capacity or tendency to deceive, that is when there is likelihood or fair probability that a 'consumer' or 'seller' will be misled; it is therefore necessary in these cases to consider each advertisement in its entirety and not to engage in disputatious dissection; ultimate impression upon mind of a 'consumer' or 'seller' arises from sum total of not only what is said but also of all that is reasonably implied; advertising need not be literally false in order to fall within proscription of Act. FTC v Sterling Drug, Inc. (1963, CA2 NY) 317 F2d 669.

102. Whether 'EBAY, PAYPAL and /or YAKOUB,' effectuated its misrepresentations in good or bad faith is not determinative of whether such misrepresentations are deceptive and misleading; 'however, in order to be held participant in deception, an advertising agency or in this case, 'EBAY' must know or have reason to know of falsity of advertising.' Doherty,

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Clifford, Steers & Shenfield, Inc. v FTC (1968, CA6) 392 F2d 921, 1968

CCH Trade Cases P 72397.

103. Plaintiff is thereby entitled to recover from 'EBAY,' 'PAYPAL' and 'YAKOUB,' all pecuniary remuneration Plaintiff has presently put forth and will have to spend in the future to address the effects of Defendants' actions.

XIV. COUNT EIGHT
VIOLATION OF 15 U.S.C. §§ 52(a)

104. Plaintiff re-alleges and incorporates the foregoing allegations as set forth herein this Complaint.

105. 'EBAY, PAYPAL AND YAKOUB,' knowingly and willingly perpetrated marketing, promotion and advertising that was intended to coerce Plaintiff into selling his personal 'goods' on its e-commerce website. These material deceptions established herein violate basic business principles that prevent unfair business competition and practices that include any, 'unlawful, unfair or fraudulent' act or practice, as well as any 'unfair, deceptive, untrue or misleading' advertising as established herein.

106. 'EBAY, PAYPAL and YAKOUB,' knowingly and willingly violated 15 U.S.C. § 45(a)(1) by fraudulently representing false and misleading

statements and advertising that allegedly affirmed to Plaintiff, that he had been afforded a choice to accept or deny returns.

107. The gravity of harm resulting from these unfair acts and practices outweigh any conceivable reasons, justifications and/or motives of the Defendants to engage in such deceptive acts and/or practices. By committing the acts and practices alleged herein, Defendants proved beyond the shadow of doubt, that they are predisposed to engage in unfair business practices within the meaning of 15 U.S.C. § 45(a)(1).

XV. COUNT NINE
**VIOLATION OF THE RACKETEER INFLUENCED
CORRUPTION ACT (RICO) 18 U.S.C. § 1961 *et seq.*,**

108. Plaintiff re-alleges and incorporates the foregoing allegations as set forth within, 1 through 107, of this Complaint.

109. Each officer, director, executive and manager associated with the 'EBAY, PAYPAL and YAKOUB' who schemed to defraud Plaintiff, through a well documented pattern of racketeering activities within the meaning of, 18 U.S.C. §§ 1961(1), 1961(5), 1961(5) and 1962(c) and used mail and/or wire facilities, is in violation of 18 U.S.C. § 1341 (mail fraud) and § 1343 (wire fraud).

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110. ‘EBAY, PAYPAL conspired with YAKOUB,’ thereby aided, abetted and/or committed two predicate acts of racketeering, 18 U.S.C. §§ 1341 and 1343. ‘EBAY and PAYPAL conspired with YAKOUB,’ by jointly perpetrating the same methods to fraudulently return Plaintiffs’ ‘Emilio Pucci,’ haute couture dress that had been thoughtlessly exploited by ‘YAKOUB’ who negligently imbued the dress with cheap poorly manufactured perfume that has rendered the garment superfluous and/or worthless in value. As evidenced herein, a great deal of these illegal activities were effectuated in CALIFORNIA.

Along with telephone, chat and email meetings, the Defendants concomitantly hatched and/or promoted the fraudulent scheme by using the phone, mail and internet to communicate their criminal activities and/or malfeasant intentions.

111. ‘PAYPAL’ is a *de facto* partner with ‘EBAY,’ thereby concomitantly defrauding Plaintiff under materially false or fraudulent pretenses, false representations, false promises and thereby furthering its ongoing pattern of concealment. Both ‘EBAY’ and ‘PAYPAL’ concealed these fraudulent activities hundreds of thousands or perhaps millions of times to other

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'consumers' and/or 'sellers' who are similarly situated by willingly engaging in criminal racketeering activities to further aggrandize profits at any cost.

112. These RICO predicated acts of racketeering (18 U.S.C. § 1961(1)) include, but are not limited to:

(a) Mail Fraud: 'EBAY, PAYPAL and YAKOUB' violated 18 U.S.C. § 1341; by sending or receiving, or by causing to be sent and/or received, materials via United States mail or commercial interstate carriers for the purpose of perpetrating the unlawful scheme ascribed to 'YAKOUBs' fraudulent claim that Plaintiffs 'Emilio Pucci' haute couture dress was sold under inaccurate pretenses, misrepresentations, promises, and omissions and then returned to Plaintiff in a 'damaged' beyond repair condition thereby rendering the dress worthless.

(b) Wire Fraud: 'EBAY, PAYPAL and YAKOUB,' violated 18 U.S.C. § 1343, by transmitting and/or receiving, or by causing to be transmitted and/or received, materials by wire for the purpose of perpetrating an unlawful scheme to defraud and obtain pecuniary remuneration from Plaintiff on false pretenses, misrepresentations, promises, and omissions.

113. Plaintiff implores the court to impose treble damages at three times actual damages, along with equitable relief for costs associated with this litigation pursuant to 18 U.S.C. § 1964(c).

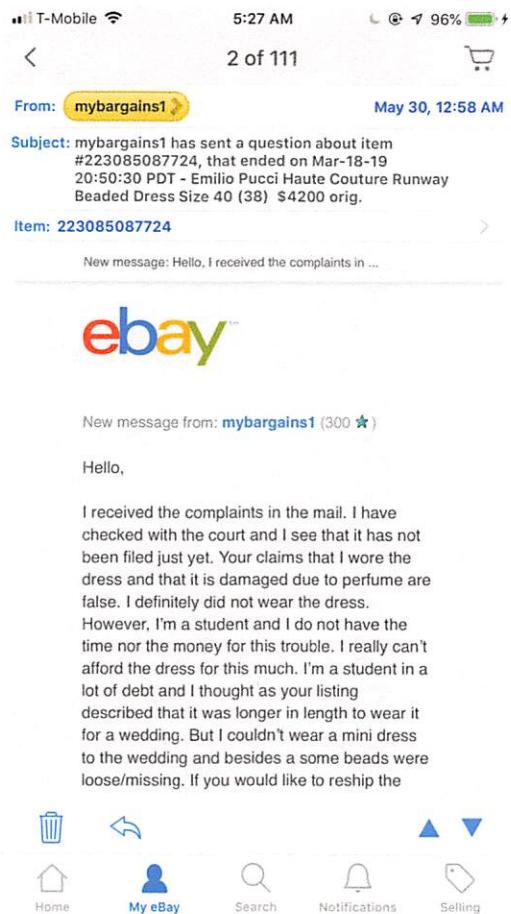
XIII. PUNITIVE DAMAGES

114. 'EBAY, PAYPAL and YAKOUB,' committed intentional acts of an unreasonable character in disregard to known or obvious risks so great as to make it highly probable that Plaintiff would suffer injury in the course of its promotion, advertisement, and/or marketing of e-commerce services to 'consumers' and/or 'sellers' such as Plaintiff in an effort to falsely claim that Plaintiffs 'Emilio Pucci' haute couture dress was inaccurately described for sale when in fact 'YAKOUB' employed these illegal tactics to 'BORROW' Plaintiffs' expensive dress, wear it for the purpose of self aggrandizing her overall image and to then return it in a severely compromised condition for a full refund at Plaintiffs' peril. As evidenced below, 'YAKOUB' never intended to purchase the dress from Plaintiff. In her own words she testifies that she is a student and cannot afford to purchase an expensive dress such as this.

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115. As a consequence of each such an intentional act of falsity, Plaintiff suffered and still suffers direct and consequential material injury.

116. ‘EBAY, PAYPAL and YAKOUB,’ intentionally perpetrated egregious acts upon Plaintiff that was so egregious, that it involved a high degree of moral culpability.

XIV. PRAYER FOR RELIEF

117. For an award of actual, general, special, incidental, statutory, compensatory and consequential damages on claims brought under , NY CLS General Bus

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§ 350 , Common Law Fraud, Conspiracy, NY CLS Gen Bus § 349, 15

U.S.C. §§ 52(a), 15 U.S.C. § 45(a)(1), NY Exec. Law § 63(1), (RICO) 18

U.S.C. § 1961 et seq..., and in an amount to be proven at trial;

118. For an order requiring Defendants to disgorge, restore, and return all pecuniary remuneration that was wrongfully obtained together with interest calculated at the maximum legal rate;
119. For an order enjoining the wrongful conduct alleged herein;
120. For costs associated with adjudicating this matter;
121. Punitive damages as the Court deems just and proper;
122. For interest and penalties;
123. For such other relief as the Court deems just and proper;
124. For intentional infliction of emotional distress;
125. For negligent infliction of emotional distress;
126. For Plaintiffs' pain and suffering;

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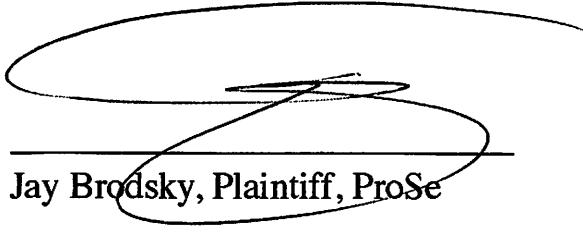
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XV.

PLAINTIFFS AFFIRMATION

On this 1st day of June, 2019, Plaintiff, Jay Brodsky, resides at, 240
East Shore Road, Apartment 444, Great Neck, New York 11023 and duly
deposes under penalty of perjury, that the facts as stated herein are true to the
best of his knowledge.

Signed this 1st day of June, 2019 at Great Neck, New York;



Jay Brodsky, Plaintiff, ProSe

EXHIBIT

“1”

[Help Center
\(/us/smarthelp/home\)](/us/smarthelp/home)

[Contact Customer
Service](#)

[Community Forum \(https://www.paypal-community.com/t5/PayPal-Community/cr-p/en?country.x=us\)](#)
[Resolution Center \(/signin/?returnUrl=https%3A%2F%2Fwww.paypal.com%2Fcgi-bin%2Fwebscr%3Fcmd%3D_complaint-view\)](#)

Tell us about your issue so we can help you more quickly.

 [Search for your issue](#)

Common Issues

Password and account access

[Resets, unlock account, unknown charges](#) >

Payments

[Holds, declines, refunds, balance](#) >

Account profile and set up

[Bank account, credit card, email, phone](#) >

[\(/myaccount/summary\)](/myaccount/summary)

Summary (/myaccount/summary)	Activity (/myaccount/transactions/)	Send & Request (/myaccount/transfer? fromHeader)	Wallet (/myaccount/wallet) (https://www.
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RE: DRAFTING AGREEMENT

CONTACT UP TO DATE LEGAL QUESTIONS

SECURITY AND DATA PROTECTION RECORDING FEES AND POLICY

Privacy (/webapps/mpp/ua/privacy-full) Legal (/webapps/mpp/ua/legal)

Chat

Breanna 03:47 PM

Within the next 24-72 hours we will update you via email.

Jay Brodsky 03:47 PM

Thank you.

Breanna 03:48 PM

I am glad that I can help. Do you have any other questions for me today?

Jay Brodsky 03:48 PM

No, not right now

Breanna 03:48 PM

Sounds good. Thank you for your time today! If you do not have further questions, please click on the "X" in the top right hand corner of the chat window to end our session. Our session will stay connected for 3 minutes before it disconnects. Enjoy your day, Jay.

Type your question here

EXHIBIT

“2”



April 29, 2019

Dear Jay Brodsky:

The following is in response to your request for proof of delivery on your item with the tracking number:
9410 8096 9993 9809 0076 33.

Item Details

Status:	Delivered
Status Date / Time:	March 22, 2019, 11:07 am
Location:	EL CAJON, CA 92019
Postal Product:	Priority Mail®
Extra Services:	Signature Confirmation™ Up to \$50 insurance included
Actual Recipient Name:	Y NAEL

Note: Actual Recipient Name may vary if the intended recipient is not available at the time of delivery.

Shipment Details

Weight:	1lb, 0.0oz
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Recipient Signature

Signature of Recipient:

A handwritten signature in black ink, appearing to read "Y Nael".

Address of Recipient:

A handwritten address in black ink, appearing to read "306 Wolf Creek Ridge Rd".

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

EXHIBIT

“3”

From: Service Desk service@paypal.com
Subject: Transcript of chat with PayPal Customer Service
Date: April 24, 2019 at 4:05 PM
To: Jay Brodsky brooklynboy419@gmail.com

Here's a transcript of your chat with PayPal from Wed Apr 24 2019

PayPal	: Hi! I'm PayPal's virtual agent. To get started, simply ask me a question.
PayPal	: I am still learning, so if I can't help you, I'll direct you to additional resources.
Jay Brodsky	: chat with agent
PayPal	: Would you like to chat with a Customer Service agent?
PayPal	: Estimated wait time is: 2 minutes
Jay Brodsky	: Yes
PayPal	: Thank you for choosing to chat with us. An agent will be with you shortly
Omkar	: Thank you for contacting PayPal! My name is Omkar and I'm a dispute agent at PayPal. What can I look into for you today?
Jay Brodsky	: This communication is regarding a chargeback of 900.00
Jay Brodsky	: The decision rendered by PayPal was arbitrary and capricious. I will be filing litigation in a District Court against all parties involved for conspiracy, common law fraud, negligence, violations of both NY GBL *** & 349, NY Executive law 63, and possibly 18 USC **** & **** (wire and mail fraud)
Omkar	: I am sorry to hear that, I will check and assist you with that information.
Jay Brodsky	: The buyer purchased a dress, wore the dress, ruined the dress worth at time of purchase \$4200.00.
Omkar	: I checked and see that the buyer had returned the item to you and provided return tracking information which showed that the item was delivered to the address you had provided.
Omkar	: I understand that you have already appealed this case and our backend team will again review this case.

Jay Brodsky : As previously stated, I can longer sell the dress due to a saturation of cheap perfume. What was the basis for PayPals decision and what are the qualifications of the individuals who rendered the decision?

Omkar : Just to confirm, you have received the item back but not in the condition you had sent. Is that correct?

Jay Brodsky : As far as I am concerned this is not brain surgery. The item is ruined.

Omkar : I do understand your situation, I have made a note of this on the dispute you have appealed.

Jay Brodsky : When will I receive a decision?

Jay Brodsky : Who is the in house general counsel for PayPal so I can serve legal documents to him/her?

Omkar : Jay, I would request you to attach pictures of the dress when it was sent to buyer and in the condition you have received back.

Omkar : Based on that our backend team who reviews the case will take a decision on this.

Jay Brodsky : Pictures unfortunately will not accurately effectuate the condition upon which it was returned due to it being saturated in cheap perfume.

Jay Brodsky : It is a hand made dress of which only ten were produced for A list customers of Emilio Pucci

Omkar : Jay, our backend team will contact you through email for additional documents/proof so that they can investigate it and take a decision on this.

Jay Brodsky : I will give them a limited amount of time to do so before I adjudicate the matter in a District Court at extremely great cost to all of the Defendants involved, PayPay, eBay and the buyer will be defendants. You have been notified.

Omkar : Okay.

You will also receive an email from our backend team regarding the documents required to take a decision on this.

Omkar : Is there anything else I can assist you with today?
 .law Please make sure all notes decisions documents email

Brodsky	phone call recordings and all other communications are preserved for future discovery proceedings
Omkar	: Sure, you can opt in to receive this chat transcript through email once the chat ends.
Jay Brodsky	: How do I do that?
Omkar	: Jay, once the chat ends a window will pop-up asking if you would like to receive this chat transcript.
Jay Brodsky	: Thank you for your kind cooperation today.
Omkar	: You're welcome, Jay.
Omkar	: Thank you for contacting PayPal chat support. Have a wonderful day ahead!